

The Honorable Thomas S. Zilly  
Noting Date: February 24, 2020  
NO ORAL ARGUMENT REQUESTED

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BRENDA TAYLOR, individually, and as  
executor of the Estate of Che Andre Taylor;  
CHE ANDRE TAYLOR, JR., individually; and  
SARAH SETTLES on behalf of her minor  
child, CMT,

Plaintiffs,

vs.

CITY OF SEATTLE; MICHAEL SPAULDING  
and "JANE DOE" SPAULDING, and their  
marital community composed thereof; SCOTT  
MILLER and "JANE DOE" MILLER, and their  
marital community composed thereof;  
TIMOTHY BARNES and "JANE DOE"  
BARNES, and their marital community  
composed thereof; and AUDI ACUESTA and  
"JANE DOE" ACUESTA, and their marital  
community composed thereof,

Defendants.

No. 2:18-CV-00262-TSZ

DEFENDANTS' MOTION TO AMEND  
THE COURT'S MINUTE ORDER

Noting Date: February 24, 2020  
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1 Defendants City of Seattle, Michael Spaulding, Scott Miller, Timothy Barnes and Audi  
2 Acuesta (“Defendants”), by and through their attorneys of record, respectfully move the Court to  
3 amend its Minute Order (Dkt. 63) granting Defendants’ Motion to Compel Discovery (Dkt. 48).

4 Defendants now move the Court to: (1) allow the Seattle Police Department (“SPD”) to unlock the  
5 password or passcode for entry into one of the two phones to be forensically inspected – the SESC  
6 Samsung Cell in White Case (Evidence ID/Property Report #624940-11) and extract the raw data  
7 from said phone; and (2) extend the disclosure deadline for Mr. Allan Muchmore’s forensic expert  
8 report to February 28, 2020.

### 9 I. BACKGROUND

10 The Court’s Minute Order (Dkt. 63) granted Defendants’ Motion to Compel Discovery (Dkt.  
11 48) in its entirety, with the only limitation being that “[a]ny discovery as a result of the inspection  
12 shall be subject to the parties’ Stipulated Protective Order entered December 28, 2018.” Defendants’  
13 Motion to Compel Discovery had specified that “[f]orensic expert **Mr. Muchmore** will examine Che  
14 Andre Taylor’s cellular phones, **including the password or passcode for entry into the cellular**  
15 **phones.**” (emphasis added).

16 Defendants now move the Court to allow the Seattle Police Department (“SPD”) (in place of  
17 Mr. Muchmore) to unlock the password or passcode for entry into one of the two phones to be  
18 forensically inspected – the SESC Samsung Cell in White Case (Evidence ID/Property Report  
19 #624940-11) and extract the raw data.

20 Following the Court’s Minute Order (Dkt. 63), Mr. Muchmore gained custody of the two  
21 phones to be forensically inspected – (1) Blue Samsung Verizon Flip Phone (Evidence ID/Property  
22 Report #624971-1) and (2) SESC Samsung Cell in White Case (Evidence ID/Property Report  
23 #624940-11). (Muchmore Decl. ¶3).

1 Upon examining the phones, Mr. Muchmore discovered that one of the phones (the SESC  
 2 Samsung Cell in White Case (Evidence ID/Property Report #624940-11)) had a swollen battery,  
 3 requiring a repair to turn on the phone (Muchmore Decl. ¶4). Upon that phone's battery being  
 4 repaired, Mr. Muchmore discovered that he does not possess the technological capability to unlock  
 5 the password or passcode for entry into that phone. (Muchmore Decl. ¶5). Upon his examination of  
 6 the phone in question, Mr. Muchmore believes that SPD possesses systems specifically designed for  
 7 unlocking the password or passcode for entry into that phone. (Muchmore Decl. ¶6).

8 If the Court permits SPD to unlock the password or passcode for entry into that phone and  
 9 extract the raw data, Mr. Muchmore would resume his forensic examination of that phone permitted  
 10 under the Court's Minute Order (Dkt. 63) (Muchmore Decl. ¶7).

### 11 **PRAYER FOR RELIEF**

12 Defendants respectfully request that the Court: (1) allow the Seattle Police Department  
 13 ("SPD") to unlock the password or passcode for entry into one of the two phones to be forensically  
 14 inspected – the SESC Samsung Cell in White Case (Evidence ID/Property Report #624940-11) and  
 15 extract the raw data from said phone; and (2) extend the disclosure deadline for Mr. Allan  
 16 Muchmore's forensic expert report to February 28, 2020.

17  
 18 DATED this 16<sup>th</sup> day of January, 2020.

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**CERTIFICATE OF SERVICE**

I hereby certify that on January [REDACTED], 2020 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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